

# FAITH IN ARBITRATION GROWING IN PORTUGAL - CAIADO GUERREIRO & ASSOCIADOS

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## **Increasing number of administrative, tax and consumer disputes now following the pharmaceutical industry's lead in settling disputes via arbitration**

Arbitration is increasing in popularity in Portugal as it is adopted by a wider range of industry sectors, according to Caiado Guerreiro & Associados partner João Caiado Guerreiro.

"There is unquestionably an arbitration-friendly environment in Portugal at present," Caiado Guerreiro says. "Portugal has had, since 2011, a voluntary arbitration act inspired by the most advanced legislation, as well as specialised and qualified arbitrators." He adds that arbitration is now used in a wide variety of cases, including administrative, tax and consumer disputes.

Caiado Guerreiro says Portuguese law firms consider arbitration to be one of the biggest opportunities for dispute resolution lawyers, and this is evidenced by the wide range of diverse of cases being brought to arbitration courts. Recent disputes have centred on areas such as pharmaceuticals and life sciences – this is a direct result of legislation enacted five years ago that

stipulates that disputes related to the industrial property rights of medicines should be mandatorily subject to arbitration.

"The regime has allowed for the rise of interesting case law regarding patent or infringement, and the shortage of industrial property experts," Caiado Guerreiro explains. He adds that the growth in tax arbitration in Portugal can be explained by the advantages it offers in terms of simplification, swiftness and cost-effectiveness in comparison with the judicial courts. In addition, arbitration has the same degree of compliance with the rules of due process as those courts, particularly in regard to independence and impartiality.

However, Caiado Guerreiro warns that one of the main challenges law firms face with regard to arbitration is so-called "forum shopping", which may cause disputes related to Portugal or Portuguese-speaking countries to be judged in distant and unfamiliar venues that may not be as arbitration-friendly as Portugal. He concludes: "This could potentially interfere in the outcome of the dispute."